

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

GENE GOPSHTEIN

(b) County of Residence of First Listed Plaintiff PHILADELPHIA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Cary L. Flitter, Andrew M. Milz, Jody T. Lopez-Jacobs, Flitter Milz, P.C.
450 N. Narberth Avenue, Suite 101, Narberth, PA 19072 (610) 822-0782

DEFENDANTS

SAGE CAPITAL RECOVERY, LLC

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1692g

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

GENE GOPSHTEIN

:

:

:

:

:

CIVIL ACTION

v.

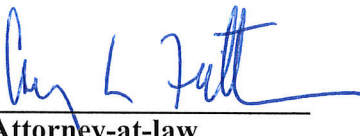
SAGE CAPITAL RECOVERY, LLC

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>Nov 21, 2017</u> Date	 Attorney-at-law	 Attorney for Plaintiff
<u>610-822-0782</u> Telephone	<u>610-667-0552</u> FAX Number	<u>CFLITTER@CONSUMERSLAW.COM</u> E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 301 Byberry Road, Apt. F-4, Philadelphia, PA 19116

Address of Defendant: 1040 Kings Highway North, Cherry Hill, NJ 08034

Place of Accident, Incident or Transaction: Bensalem, PA 19020

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) Fair Debt Collection Practices Act

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, _____, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: Nov 21, 2017

Attorney-at-Law

Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GENE GOPSHTEIN
301 Byberry Road, Apt. F-4
Philadelphia, PA 19116

Plaintiff

v.

SAGE CAPITAL RECOVERY, LLC
1040 Kings Highway North
Cherry Hill, NJ 08034

Defendant

CIVIL ACTION

NO.

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 (“FDCPA”).

2. The FDCPA requires a mandatory initial notice as an informal dispute mechanism. 15 U.S.C. § 1692g(a).

3. The notice alerts the consumer of his rights to, *inter alia*, dispute his debt in writing within thirty days after receipt of the notice. *See* 15 U.S.C. § 1692g(a)(3).

4. Only a *written* dispute is sufficient to trigger the debt collector’s obligation to cease collection and verify the debt. *See* 15 U.S.C. § 1692g(b). Oral disputes, such as a dispute via telephone, are insufficient to trigger any obligation of the debt collector. *See Caprio v. Healthcare Revenue Recovery Grp., LLC*, 709 F.3d 142, 148 (3d Cir. 2013).

5. The validation notice must not be overshadowed or contradicted by other messages from the debt collector.

6. Defendant is subject to strict liability for sending an initial collection letter to Plaintiff which obscured the required notice, and which failed to provide the validation notice in a conspicuous and prominent manner, in violation of the FDCPA.

II. JURISDICTION

7. Jurisdiction arises under the FDCPA, 15 U.S.C. §1692k, and 28 U.S.C. §§1331 and 1337.

8. *In personam* jurisdiction exists and venue is proper as Defendant sent the relevant letter to an address in this district which caused harm in this district.

III. PARTIES

9. Plaintiff, Gene Gopshtein (“Gopshtein” or “Plaintiff”), is a consumer who resides at 301 Byberry Road, Apt. F-4, Philadelphia, PA, 19116.

10. Defendant, Sage Capital Recovery, LLC (“Sage”) is upon information and belief a New Jersey collection agency with an office for the regular transaction of business at 1040 Kings Highway North, Cherry Hill, NJ 08034.

11. Sage regularly engages in the collection of consumer debts by use of the mail and telephone.

12. Sage regularly sends debt collection letters out on behalf of creditors including Abington Health.

13. Sage regularly attempts to collect consumer debts alleged to be due another.

14. Sage is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. § 1692a(6).

15. Sage regularly collects debts in this District.

IV. STATEMENT OF CLAIM

16. On November 30, 2016, Sage sent Plaintiff an initial written communication in connection with an Abington Health debt alleged due. (Exhibit “A”, redacted). Plaintiff disputes the debt.

17. Section 1692g(a) of the FDCPA requires a debt collector to provide a consumer with a Verification Rights Notice (“Notice”) containing information about the alleged debt and a consumer’s right to dispute and seek validation as more specifically set forth in subsections (a)(1)-(5).

18. Only a *written* dispute triggers Sage’s obligation to provide Mr. Gopshtein verification of the debt.

19. The Notice is an important statutory right which must be effectively conveyed to the consumer.

20. The Notice must be sufficiently prominent to be noticed. It cannot be obscured, overshadowed, nor contradicted by other language or notices in the letter.

21. A debt collector may not mislead the least sophisticated consumer into believing that an oral dispute via telephone is sufficient.

22. Sage’s collection dun invites the consumer to call Sage regarding any information about their account.

23. Specifically, Sage’s dun states, “You may also contact our office directly by calling 866-757-SAGE (7243) to discuss this matter with one of our experienced account representatives.” *See* Exhibit “A” (emphasis added).

24. This language is confusing and overshadows the required statutory validation notice.

25. Sage's letter is deceptive because a least sophisticated debtor could reasonably believe that if he or she does not owe, or is not responsible for a debt, he or she can make such a dispute by phone.

26. The debtor may mistakenly dispute the debt by calling the collection agency because the letter lists a phone number if the debtor wants to "discuss this matter."

27. The Notice in Defendant's November 30, 2016 collection notice is not prominent, and it is overshadowed and contradicted by other language or notices in the letter, in violation of the FDCPA. 15 U.S.C. §1692g.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT

28. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

29. The November 30, 2016 collection letter from defendant Sage violates the FDCPA by failing to effectively provide Plaintiff with the statutory Notice required by 15 U.S.C. § 1692g.

30. The collection letter from defendant Sage violates the FDCPA's provisions prohibiting debt collectors from using "any false, deceptive, or misleading representation or means in connection with the collection of any debt" and prohibiting "[t]he use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer." 15 U.S.C. §§ 1692e, 1692e(10).

WHEREFORE, Plaintiff, Gene Gopshtein demands judgment against defendant Sage Capital Recovery, LLC for:

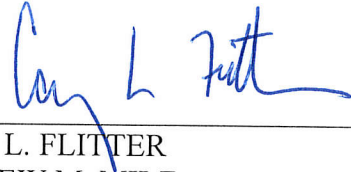
- (a) Damages;
- (b) Attorney's fees and costs;
- (c) Such other and further relief as the Court shall deem just and proper.

V. **DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury as to all issues so triable.

Respectfully submitted:

Date: Nov 21, 2017

A handwritten signature in blue ink, appearing to read "Cary L. Flitter", is written over a horizontal line.

CARY L. FLITTER
ANDREW M. MILZ
JODY THOMAS LÓPEZ-JACOBS
Attorneys for Plaintiff

FLITTER MILZ, P.C.
450 N. Narberth Avenue, Suite 101
Narberth, PA 19072
(610) 822-0782

EXHIBIT "A"

1040 Kings Hwy N., Cherry Hill, NJ 08034
866-757-SAGE (7243)
Office Hours (EST): 8am-9pm Mon-Tue
8am-5pm Wed-Fri

Date: November 30, 2016
Reference #: 5231
Creditor: ABINGTON HEALTH
Amount Due: \$4,502.50

LETTER OF REPRESENTATION

Dear GENE GOPSHTEIN:

Sage Capital Recovery has been retained by ABINGTON HEALTH to recover the outstanding amount that is owed to them on the above referenced account. ABINGTON HEALTH has indicated that this is a just and legitimate debt and is taking this matter very seriously. They trust that you will do the same.

The purpose of this letter is to advise you of your financial responsibility and to assure you that we conduct our collection activities in compliance with all pertinent state and federal laws. Once full payment has been received, and cleared by your bank if applicable, we will discontinue all collection activity and inform ABINGTON HEALTH that this debt has been resolved.

Please complete and return the below coupon in the enclosed reply envelope.

You may also contact our office directly by calling 866-757-SAGE (7243) to discuss this matter with one of our experienced account representatives. Ignoring this matter will not make it go away. Please take advantage of the opportunity to resolve this long-standing financial obligation.

NOTICE: Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, that the debt or any portion thereof, is disputed, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information obtained will be used for that purpose.
This communication is from a debt collector.

Account Detail		
<u>Client Acct. #</u>	<u>Date of Service</u>	<u>Balance</u>
██████████ 2155	04/11/16-04/11/16	\$60.00
██████████ 1643	03/25/16-03/25/16	\$250.00
██████████ 1720	12/14/15-12/14/15	\$4,192.50

204ATSAGE01SSL1M-283539040



PLEASE DETACH AND RETURN LOWER PORTION WITH PAYMENT

Date: November 30, 2016
Reference #: 5231
Creditor: ABINGTON HEALTH
Amount Due: \$4,502.50

BbbbbbBbbbbbBbbbbbBbbbbbBbbbbbBbbbbb

**PAY THIS
AMOUNT: \$4,502.50**

☐ Payment in full is enclosed (Check/Money Order)

Please Charge my: ☐  ☐ 

Card #:

Security Code:

Expiration Date:

Signature:

Payment Amount: